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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,132	06/30/2003	Tatsuya Higashino	040302-0326	9874
22428	7590	10/28/2005	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			KALAFUT, STEPHEN J	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,132

Applicant(s)

HIGASHINO, TATSUYA

Examiner

Stephen J. Kalafut

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date (<u>3 dates</u>). | 6) <input type="checkbox"/> Other: ____. |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogata *et al.* (US 6,709,783).

Ogata *et al.* disclose a battery pack (1) comprising a plurality of stacked cells nickel metal hydride cells (column 2, lines 55-63), each cell comprising electrodes and a separator (column 3, lines 6-10) and being sealed inside a case (3), which would constitute a package material. Several cases form a module (2). The modules are separated by spacers (6) and tied together by restraining bands between end plates (column 2, lines 59-63), the bands constituting a “pressing mechanism”. The end plates and spacers would constitute “pressuring members”, since they are arranged in the stack direction between modules. The modules themselves also include end walls (5), which would each constitute “managing members” since they would undergo the pressure exerted by the restraining bands and spacers. Walls (4) between cases would constitute “position regulating members”, and would engage the package material (3) of each cell. The modules also include connecting terminals between cells therein, and between one module and the next (column 3, lines 11-17). Claim 8 would be met by the providing of the above-mentioned components.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogata *et al.* in view of Hinton *et al.* (US 6,821,671).

Although the spacers, *i.e.*, pressuring members, of Ogata *et al.* include cooling passages (7) and thus provide a cooling function, this claim differs by reciting that the pressuring members protrude outward from the stacked cells, to provide a cooling function. Hinton *et al.* disclose a cooling device (10) for battery cells (18), which device includes a protruding corrugated area (14). The cell also includes protruding tabs (16A, 16B), which, like the corrugated area, function to carry heat away from the cell (column 3, lines 47-60). Because this would teach that the use of protruding thermal conductors enhances heat transfer, it would be obvious to extend the spacers of Ogata *et al.* to protrude from their cell stack, as taught by Hinton *et al.*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Plichta *et al.* (US 5,098,800), Golben (US 5,419,981), Kimura *et al.* (US 6,569,561) and Marukawa *et al.* (US 2003/0017384) disclose battery packs held together by various means for applying pressure.

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The disclosure is objected to because of the following informalities: Drawing numeral 31a is not found in the specification. Appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk

STEPHEN KALAFUT
PRIMARY EXAMINER
GROUP

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